

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 5:18-01816 FMO (ADS) Date: April 12, 2019

Title: Rita Vidette Ennis v. Warden Molly Hill

Present: The Honorable Autumn D. Spaeth, United States Magistrate Judge

Kristee Hopkins

Deputy Clerk

None Reported

Court Reporter / Recorder

Attorney(s) Present for Petitioner(s):
None Present

Attorney(s) Present for Respondent(s):
None Present

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL

On or about August 24, 2018, Rita Vidette Ennis filed a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by Person in State Custody. [Dkt. No. 1]. Respondent Molly Hill filed a Motion to Dismiss and lodged supporting documents with the Court. [Dkt. Nos. 6, 7]. Respondent argues that the Petition is time-barred by the one-year statute of limitations under 28 U.S.C. § 2244(d) and the claims are procedurally defaulted. [Dkt. No. 6, pp. 3-8]. Pursuant to the Court's Order Requiring Response to Petition, Petitioner was required to file an opposition to the Motion to Dismiss by March 18, 2019. [Dkt. No. 4, p. 2].

As of the date of this Order, Petitioner has not filed an opposition to the Motion to Dismiss or otherwise communicated with the Court about her case. Failure to oppose a motion to dismiss may be deemed as agreement that the motion should be granted. Petitioner is therefore **ORDERED TO SHOW CAUSE** why this action should not be dismissed **by no later than May 3, 2019**.

Petitioner may respond to this Order to Show Cause ("OSC") by taking one of the following courses of action **by no later than May 3, 2019**:

- (1) file an opposition to the Motion to Dismiss;

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 5:18-01816 FMO (ADS) Date: April 12, 2019

Title: Rita Vidette Ennis v. Warden Molly Hill

(2) file a response to the OSC which explains to the Court the good cause reason for failing to file an opposition by the court ordered deadline and setting forth a date Petitioner can and will file an opposition; or

(3) file a request for voluntary dismissal of the Petition.

If Petitioner elects to file an opposition to the Motion to Dismiss (Option 1), she must explain how and why Respondent has incorrectly calculated the statute of limitations and why statutory tolling and/or equitable tolling apply in this case. If Petitioner believes she is entitled to equitable tolling, she must provide facts that show the following: (1) that she has been pursuing her claims diligently and (2) that some extraordinary circumstance stood in her way and prevented timely filing. Holland v. Florida, 560 U.S. 631, 649 (2010).

The Clerk of Court is directed to attach a Notice of Dismissal Form (CV-009) to this Order for Petitioner's convenience.

Petitioner is cautioned that failure to timely file a response by May 3, 2019, will result in a recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

Initials of Clerk kh